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November 28

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CONCORD, N.H.

Mr. Russell B. Tobey, Director
Recreation Division
State House Annex
Concord, New Hampshire

Dear Sir:

You have inquired as to the status under our laws of the land owned by the State of New Hampshire located at Hampton Beach in the area of the bandstand and Chamber of Commerce building.

The 1933 Legislature by chapter 159 provided that as a condition to the construction of jetties, sea walls or other structures, the town of Hampton would release and convey to the state all the land in Hampton between the main travelled portion of the highway and the Atlantic Ocean and extending from the Coast Guard Station to Haverhill Avenue. This land was to be held by the state for public highway, park and recreational purposes forever, and no concession to be granted thereon, provided, however,

"that the town of Hampton, so long as the Governor and Council shall approve, may maintain the bandstand, comfort station, Chamber of Commerce building or similar structures and the parking places and playgrounds now thereon;"

From the above it appears certain that the Legislature did not intend to permit any concessions on these areas. Their only desire was to permit the town of Hampton to carry on the service to the public which was in existence at the time. The phrase "or similar structures" was necessary to permit extensions or replacements of existing facilities if necessary. However, any contemplated changes of this nature would require Governor and Council approval as is indicated by the minutes of the meeting of June 20, 1935, which reads as follows:

"Resolved: That, in accordance with the verbal report made by the chairman of the committee on investigation, the Governor and Council designated the Forestry Commission as the permanent continuin; agency to supervise the state property at Hampton Beach area subject to the approval of the Governor and Council on all matters of major importance."

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State of New York
Attorney General
Office of

Mr. Russell B. Tobey

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In view of the restrictions imposed on the town of Hampton by the legislation, as well as the deed which encompasses the same language, it is my opinion that the Chamber of Commerce building, or similar structures, may remain in operation as long as the Governor and Council approve, and any additions must secure prior approval from the Governor and Council. Therefore, the use of a portion of this land by the Chamber of Commerce for the display of the museum S.S. Spellbound, is not authorized under our laws. I realize that last year, due to a misunderstanding, your Commission allowed the Chamber to continue the display of this museum once started. However, any such future use must be approved by the Governor and Council before permission is granted. I do not believe that this type of a venture is permissible under our laws at present.

Very truly yours,

Arthur E. Dean, Jr.
Assistant Attorney General

AED, Jr./T
cc: William Treat, Esq.